

Subpart E—Updating the Scientific Elements Underlying Dose Reconstructions

§ 82.30 How will NIOSH inform the public of any plans to change scientific elements underlying the dose reconstruction process to maintain methods reasonably current with scientific progress?

Periodically, NIOSH will publish a notice in the FEDERAL REGISTER notifying the public of plans to change scientific elements underlying the dose reconstruction process under EEOICPA to reflect scientific progress. Notice will include a summary of the planned changes and the expected completion date for such changes.

§ 82.31 How can the public recommend changes to scientific elements underlying the dose reconstruction process?

(a) At any time, the public can submit written recommendations to NIOSH for changes to scientific elements underlying the dose reconstruction process, based on relevant new research findings and technological advances. NIOSH will provide these recommendations to the Advisory Board on Radiation and Worker Health to be addressed at a public meeting of the Advisory Board, with notification provided to the source of the recommendations. Recommendations should be addressed to: Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS-R45, Cincinnati, Ohio 45226.

(b) The public can also submit recommendations by e-mail. Instructions will be provided on the NIOSH Internet homepage at www.cdc.gov/niosh/ocas.

§ 82.32 How will NIOSH make changes in scientific elements underlying the dose reconstruction process, based on scientific progress?

NIOSH will present proposed changes to the Advisory Board on Radiation and Worker Health prior to implementation. These proposed changes will be summarized in a notice published in the FEDERAL REGISTER. The public will have the opportunity to comment on proposed changes at the meeting of the Advisory Board and/or in written com-

ments submitted for this purpose. NIOSH will fully consider the comments of the Advisory Board and of the public before deciding upon any changes.

§ 82.33 How will NIOSH inform the public of changes to the scientific elements underlying the dose reconstruction process?

(a) NIOSH will publish a notice in the FEDERAL REGISTER informing the public of changes and the rationale for the changes. This notice will also provide a summary of the recommendations and comments received from the Advisory Board and the public, as well as responses to the comments.

(b) NIOSH may take into account other factors and employ other procedures than those specified in this subpart, if circumstances arise that require NIOSH to implement a change more immediately than the procedures in this subpart allow.

PART 83—PROCEDURES FOR DESIGNATING CLASSES OF EMPLOYEES AS MEMBERS OF THE SPECIAL EXPOSURE COHORT UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000

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AUTHORITY: 42 U.S.C. 7384q; E.O. 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321.

SOURCE: At 69 FR 30780, May 28, 2004, unless otherwise noted.

Subpart A—Introduction

§ 83.0 Background information on the procedures in this part.

The Energy Employees Occupational Illness Compensation Program Act, as amended (“EEOICPA” or “the Act”), 42 U.S.C. 7384–7385, provides for the payment of compensation benefits to covered employees and, where applicable, survivors of such employees, of DOE, its predecessor agencies and certain of its contractors and subcontractors. Among the types of illnesses for which compensation may be provided are cancers. There are two methods set forth in the statute for claimants to establish that a cancer incurred by a covered worker is compensable under EEOICPA. The first is to establish that the cancer is at least as likely as not related to covered employment at a DOE or Atomic Weapons Employer (“AWE”) facility pursuant to guidelines issued by the Department of Health and Human Services (“HHS”), which are found at 42 CFR part 81. The second method to establish that a cancer incurred by a covered worker is compensable under EEOICPA is to establish that the worker is a member of

the Special Exposure Cohort (“the Cohort”) and suffered a specified cancer after beginning employment at a DOE facility or AWE facility. In Section 3621(14) of EEOICPA (42 U.S.C. 7384l(14)) Congress included certain classes of employees in the Cohort. Section 3626 of the Act (42 U.S.C. 7384q) authorizes the addition to the Cohort of other classes of employees. This authority has been delegated to the Secretary of HHS by Executive Order 13179.

§ 83.1 What is the purpose of the procedures in this part?

EEOICPA authorizes the President to add classes of employees to the Cohort, while providing Congress with the opportunity to review and expedite or reverse these decisions. The President delegated his authority to the Secretary of HHS. This part specifies the procedures by which HHS will determine whether to add new classes of employees from DOE and AWE facilities to the Cohort. HHS will consider adding new classes of employees in response to petitions by, or on behalf of, such classes of employees. The procedures specify requirements for petitions and for their consideration. These requirements are intended to ensure that petitions are submitted by authorized parties, are justified, and receive uniform, fair, scientific consideration. The procedures are also designed to give petitioners and interested parties opportunity for appropriate involvement in the process, and to ensure that the process is timely and consistent with requirements specified in EEOICPA. The procedures are not intended to provide a second opportunity to qualify a claim for compensation, once HHS has completed the dose reconstruction and DOL has determined that the cancer subject to the claim was not “at least as likely as not” caused by the estimated radiation doses. DOL has established procedures separate from those covered by this part, under 20 CFR part 30, for cancer claimants who want to contest the factual determinations or how NIOSH conducted their dose reconstructions.